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In The

Supreme Court of the United States

October Term, 1973

No. 73-707

THE SCHOOL BOARD OF THE CITY OF DANVILLE, VIRGINIA, ET AL.,

Petitioners,

v.

CHARLES L. MEDLEY, AN INFANT, BY GRACIE MEDLEY HAIRSTON AND LEROY HAIRSTON, HIS MOTHER AND STEPFATHER AND NEXT FRIENDS, ET AL.,

Respondents.

Petition for a Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

REPLY BRIEF TO BRIEF IN OPPOSITION TO CERTIORARI

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REASONS FOR GRANTING THE WRIT

In their Brief in Opposition to Certiorari, counsel for the Respondents concede that there is a conflict between Fourth and Sixth Circuits concerning the issue before this Court in this case. However, they urge that certiorari should be granted in *Goss* v. *Board of Education of Knoxville*, 340 F.Supp. 711 (E.D. Tenn. 1972); *aff'd*, Nos. 72-1766, 72-1767 (6th Cir. March 29, 1973); *aff'd in banc*, 482 F.2d

1044 (6th Cir. July 18, 1973); *petition for cert. filed*, No. 73-661 (October 16, 1973) in which some of them are Petitioners' counsel and denied in this case, in which they are Respondents' counsel. Such action by this Court would result in the kind of uneven justice which the certiorari jurisdiction was designed to prevent.

In their Petition for a Writ of Certiorari, Petitioners, The School Board of the City of Danville, pointed out that this case involves an open question of constitutional law under the decision of this Court in *Swann* v. *Charlotte-Mecklenburg Board of Education*, 402 U.S. 1 (1971) and *Keyes* v. *School District No. 1, Denver, Colorado*, ... U.S. ....., 93 S.Ct. 2686 (1973). The evidence in this case is uncontradicted and reveals the effective voluntary desegregation of the Danville system. Counsel would only be repeating the arguments made in the Petition if they restated their position with respect to the seriousness of the constitutional question involved in this case.

The Respondents having admitted the conflict and that the issue is ripe for decision, the Petitioners respectfully request that the Petition for Certiorari be granted.

Respectfully submitted.

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